MEDICARE AND MEDICAID PATIENT AND PROGRAM PROTECTION ACT OF 1987

Public Law 100-93
100th Congress

An Act

Aug. 18, 1987
[H.R. 1444]

To amend titles XI, XVIII, and XIX of the Social Security Act to protect beneficiaries under the health care programs of that Act from unfit health care practitioners, and otherwise to improve the antifraud provisions relating to those programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Medicare and Medicaid Patient and Program Protection Act of 1987.
42 USC 1305 note.

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare and Medicaid Patient and Program Protection Act of 1987".

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of, a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; references in Act; table of contents.
Sec. 2. Exclusion from medicare and State health care programs.
Sec. 3. Civil monetary penalties.
Sec. 4. Criminal penalties for acts involving medicare and State health care programs.
Sec. 5. Information concerning sanctions taken by State licensing authorities against health care practitioners and providers.
Sec. 6. Obligation of health care practitioners and providers.
Sec. 7. Exclusion under the medicaid program.
Sec. 8. Miscellaneous and conforming amendments.
Sec. 9. Clarification of medicaid moratorium provisions of Deficit Reduction Act of 1984.
Sec. 10. Limitation of liability of medicare beneficiaries with respect to services furnished by excluded individuals and entities.
Sec. 11. Definition of person with ownership or control interest.
Sec. 12. Conditional approval of renal dialysis facilities.
Sec. 13. Amendment relating to fraud involving medicare supplemental insurance.
Sec. 14. Standards for anti-kickback provisions.
Sec. 15. Effective dates.

SEC. 2. EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128 (42 U.S.C. 1320a-7) is amended to read as follows:

"EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS

"SEC. 1128. (a) MANDATORY EXCLUSION.—The Secretary shall exclude the following individuals and entities from participation in any program under title XVIII and shall direct that the following individuals and entities be excluded from participation in any State health care program (as defined in subsection (h)):

42 USC 1395.

"(1) CONVICTION OF PROGRAM-RELATED CRIMES.—Any individual or entity that has been convicted of a criminal offense

PublicLaws: Public Laws / 100th Congress / 1987

related to the delivery of an item or service under title XVIII or under any State health care program. 42 USC 1395.

"(2) CONVICTION RELATING TO PATIENT ABUSE.—Any individual or entity that has been convicted, under Federal or State law, of a criminal offense relating to neglect or abuse of patients in connection with the delivery of a health care item or service.

"(b) PERMISSIVE EXCLUSION.—The Secretary may exclude the following individuals and entities from participation in any program under title XVIII and may direct that the following individuals and entities be excluded from participation in any State health care program:

"(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a program operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.

"(2) CONVICTION RELATING TO OBSTRUCTION OF AN INVESTIGATION.—Any individual or entity that has been convicted, under Federal or State law, in connection with the interference with or obstruction of any investigation into any criminal offense described in paragraph (1) or in subsection (a).

"(3) CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted, under Federal or State law, of a criminal offense relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance. Drugs and drug abuse.

"(4) LICENSE REVOCATION OR SUSPENSION.—Any individual or entity—

"(A) whose license to provide health care has been revoked or suspended by any State licensing authority, or who otherwise lost such a license, for reasons bearing on the individual's or entity's professional competence, professional performance, or financial integrity, or

"(B) who surrendered such a license while a formal disciplinary proceeding was pending before such an authority and the proceeding concerned the individual's or entity's professional competence, professional performance, or financial integrity.

"(5) EXCLUSION OR SUSPENSION UNDER FEDERAL OR STATE HEALTH CARE PROGRAM.—Any individual or entity which has been suspended or excluded from participation, or otherwise sanctioned, under—

"(A) any Federal program, including programs of the Department of Defense or the Veterans' Administration, involving the provision of health care, or

"(B) a State health care program,

for reasons bearing on the individual's or entity's professional competence, professional performance, or financial integrity.

"(6) CLAIMS FOR EXCESSIVE CHARGES OR UNNECESSARY SERVICES AND FAILURE OF CERTAIN ORGANIZATIONS TO FURNISH MEDICALLY NECESSARY SERVICES.—Any individual or entity that the Secretary determines—

"(A) has submitted or caused to be submitted bills or requests for payment (where such bills or requests are

CMS Library
C2-07-13
7500 Security Blvd.
Baltimore, Maryland 21244

42 USC 1395.

based on charges or cost) under title XVIII or a State health care program containing charges (or, in applicable cases, requests for payment of costs) for items or services furnished substantially in excess of such individual's or entity's usual charges (or, in applicable cases, substantially in excess of such individual's or entity's costs) for such items or services, unless the Secretary finds there is good cause for such bills or requests containing such charges or costs;

"(B) has furnished or caused to be furnished items or services to patients (whether or not eligible for benefits under title XVIII or under a State health care program) substantially in excess of the needs of such patients or of a quality which fails to meet professionally recognized standards of health care;

"(C) is—

Contracts.
42 USC 1396b.
42 USC 1396.

"(i) a health maintenance organization (as defined in section 1903(m)) providing items and services under a State plan approved under title XIX, or

42 USC 1396n.

"(ii) an entity furnishing services under a waiver approved under section 1915(b)(1),

and has failed substantially to provide medically necessary items and services that are required (under law or the contract with the State under title XIX) to be provided to individuals covered under that plan or waiver, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) these individuals; or

"(D) is an entity providing items and services as an eligible organization under a risk-sharing contract under section 1876 and has failed substantially to provide medically necessary items and services that are required (under law or such contract) to be provided to individuals covered under the risk-sharing contract, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) these individuals.

42 USC 1395mm.

"(7) FRAUD, KICKBACKS, AND OTHER PROHIBITED ACTIVITIES.—Any individual or entity that the Secretary determines has committed an act which is described in section 1128A or section 1128B.

Post, pp. 686–688.
Post, p. 689.

"(8) ENTITIES CONTROLLED BY A SANCTIONED INDIVIDUAL.—Any entity with respect to which the Secretary determines that a person—

"(A)(i) with an ownership or control interest (as defined in section 1124(a)(3)) in that entity, or

42 USC 1320a–3.

"(ii) who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of that entity—

Post, p. 692.

is a person—

"(B)(i) who has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection;

"(ii) against whom a civil monetary penalty has been assessed under section 1128A; or

"(iii) who has been excluded from participation under a program under title XVIII or under a State health care program.

"(9) FAILURE TO DISCLOSE REQUIRED INFORMATION.—Any entity that did not fully and accurately make any disclosure required by section 1124 or section 1126.

"(10) FAILURE TO SUPPLY REQUESTED INFORMATION ON SUBCONTRACTORS AND SUPPLIERS.—Any disclosing entity (as defined in section 1124(a)(2)) that fails to supply (within such period as may be specified by the Secretary in regulations) upon request specifically addressed to the entity by the Secretary or by the State agency administering or supervising the administration of a State health care program— 42 USC 1320a-3.

"(A) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom the entity has had, during the previous 12 months, business transactions in an aggregate amount in excess of $25,000, or

"(B) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between the entity and any wholly owned supplier or between the entity and any subcontractor.

"(11) FAILURE TO SUPPLY PAYMENT INFORMATION.—Any individual or entity furnishing items or services for which payment may be made under title XVIII or a State health care program that fails to provide such information as the Secretary or the appropriate State agency finds necessary to determine whether such payments are or were due and the amounts thereof, or has refused to permit such examination of its records by or on behalf of the Secretary or that agency as may be necessary to verify such information. 42 USC 1395.

"(12) FAILURE TO GRANT IMMEDIATE ACCESS.—Any individual or entity that fails to grant immediate access, upon reasonable request (as defined by the Secretary in regulations) to any of the following:

"(A) To the Secretary, or to the agency used by the Secretary, for the purpose specified in the first sentence of section 1864(a) (relating to compliance with conditions of participation or payment). 42 USC 1395aa.

"(B) To the Secretary or the State agency, to perform the reviews and surveys required under State plans under paragraphs (26), (31), and (33) of section 1902(a) and under section 1903(g). 42 USC 1396a. 42 USC 1396b.

"(C) To the Inspector General of the Department of Health and Human Services, for the purpose of reviewing records, documents, and other data necessary to the performance of the statutory functions of the Inspector General.

"(D) To a State medicaid fraud control unit (as defined in section 1903(q)), for the purpose of conducting activities described in that section.

"(13) FAILURE TO TAKE CORRECTIVE ACTION.—Any hospital that fails to comply substantially with a corrective action required under section 1886(f)(2)(B). Health care facilities. 42 USC 1395ww.

"(14) DEFAULT ON HEALTH EDUCATION LOAN OR SCHOLARSHIP OBLIGATIONS.—Any individual who the Secretary determines is in default on repayments of scholarship obligations or loans in connection with health professions education made or secured, in whole or in part, by the Secretary and with respect to whom the Secretary has taken all reasonable steps available to the Secretary to secure repayment of such obligations or loans,

except that (A) the Secretary shall not exclude pursuant to this paragraph a physician who is the sole community physician or sole source of essential specialized services in a community if a State requests that the physician not be excluded, and (B) the Secretary shall take into account, in determining whether to exclude any other physician pursuant to this paragraph, access of beneficiaries to physician services for which payment may be made under title XVIII or XIX.

42 USC 1395, 1396.

"(c) NOTICE, EFFECTIVE DATE, AND PERIOD OF EXCLUSION.—(1) An exclusion under this section or under section 1128A shall be effective at such time and upon such reasonable notice to the public and to the individual or entity excluded as may be specified in regulations consistent with paragraph (2).

Post, p. 686.

"(2)(A) Except as provided in subparagraph (B), such an exclusion shall be effective with respect to services furnished to an individual on or after the effective date of the exclusion.

"(B) Unless the Secretary determines that the health and safety of individuals receiving services warrants the exclusion taking effect earlier, an exclusion shall not apply to payments made under title XVIII or under a State health care program for—

"(i) inpatient institutional services furnished to an individual who was admitted to such institution before the date of the exclusion, or

"(ii) home health services and hospice care furnished to an individual under a plan of care established before the date of the exclusion,

until the passage of 30 days after the effective date of the exclusion.

"(3)(A) The Secretary shall specify, in the notice of exclusion under paragraph (1) and the written notice under section 1128A, the minimum period (or, in the case of an exclusion of an individual under subsection (b)(12), the period) of the exclusion.

"(B) In the case of an exclusion under subsection (a), the minimum period of exclusion shall be not less than five years, except that, upon the request of a State, the Secretary may waive the exclusion under subsection (a)(1) in the case of an individual or entity that is the sole community physician or sole source of essential specialized services in a community. The Secretary's decision whether to waive the exclusion shall not be reviewable.

"(C) In the case of an exclusion of an individual under subsection (b)(12), the period of the exclusion shall be equal to the sum of—

"(i) the length of the period in which the individual failed to grant the immediate access described in that subsection, and

"(ii) an additional period, not to exceed 90 days, set by the Secretary.

"(d) NOTICE TO STATE AGENCIES AND EXCLUSION UNDER STATE HEALTH CARE PROGRAMS.—(1) Subject to paragraph (3), the Secretary shall exercise the authority under subsection (b) in a manner that results in an individual's or entity's exclusion from all the programs under title XVIII and all the State health care programs in which the individual or entity may otherwise participate.

"(2) The Secretary shall promptly notify each appropriate State agency administering or supervising the administration of each State health care program (and, in the case of an exclusion effected pursuant to subsection (a) and to which section 304(a)(5) of the Controlled Substances Act may apply, the Attorney General)—

21 USC 824.

"(A) of the fact and circumstances of each exclusion effected against an individual or entity under this section or section 1128A, and

"(B) of the period (described in paragraph (3)) for which the State agency is directed to exclude the individual or entity from participation in the State health care program.

"(3)(A) Except as provided in subparagraph (B), the period of the exclusion under a State health care program under paragraph (2) shall be the same as any period of exclusion under a program under title XVIII.

"(B) The Secretary may waive an individual's or entity's exclusion under a State health care program under paragraph (2) if the Secretary receives and approves a request for the waiver with respect to the individual or entity from the State agency administering or supervising the administration of the program.

"(e) NOTICE TO STATE LICENSING AGENCIES.—The Secretary shall—

"(1) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of an individual or entity excluded (or directed to be excluded) from participation under this section or section 1128A, of the fact and circumstances of the exclusion,

"(2) request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and

"(3) request that the State or local agency or authority keep the Secretary and the Inspector General of the Department of Health and Human Services fully and currently informed with respect to any actions taken in response to the request.

"(f) NOTICE, HEARING, AND JUDICIAL REVIEW.—(1) Subject to paragraph (2), any individual or entity that is excluded (or directed to be excluded) from participation under this section is entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

"(2) Unless the Secretary determines that the health or safety of individuals receiving services warrants the exclusion taking effect earlier, any individual or entity that is the subject of an adverse determination under subsection (b)(7) shall be entitled to a hearing by an administrative law judge (as provided under section 205(b)) on the determination under subsection (b)(7) before any exclusion based upon the determination takes effect.

"(3) The provisions of section 205(h) shall apply with respect to this section and sections 1128A and 1156 to the same extent as it is applicable with respect to title II.

"(g) APPLICATION FOR TERMINATION OF EXCLUSION.—(1) An individual or entity excluded (or directed to be excluded) from participation under this section or section 1128A may apply to the Secretary, in the manner specified by the Secretary in regulations and at the end of the minimum period of exclusion provided under subsection (c)(3) and at such other times as the Secretary may provide, for termination of the exclusion effected under this section or section 1128A.

"(2) The Secretary may terminate the exclusion if the Secretary determines, on the basis of the conduct of the applicant which occurred after the date of the notice of exclusion or which was unknown to the Secretary at the time of the exclusion, that—

Post, p. 686.

42 USC 1395.

42 USC 405.

42 USC 1320c-5.
42 USC 401.

"(A) there is no basis under subsection (a) or (b) or section 1128A(a) for a continuation of the exclusion, and

Infra.

"(B) there are reasonable assurances that the types of actions which formed the basis for the original exclusion have not recurred and will not recur.

"(3) The Secretary shall promptly notify each appropriate State agency administering or supervising the administration of each State health care program (and, in the case of an exclusion effected pursuant to subsection (a) and to which section 304(a)(5) of the Controlled Substances Act may apply, the Attorney General) of the fact and circumstances of each termination of exclusion made under this subsection.

21 USC 824.

"(h) DEFINITION OF STATE HEALTH CARE PROGRAM.—For purposes of this section and sections 1128A and 1128B, the term 'State health care program' means—

Post, p. 689.

"(1) a State plan approved under title XIX,

42 USC 1396.

"(2) any program receiving funds under title V or from an allotment to a State under such title, or

42 USC 701.

"(3) any program receiving funds under title XX or from an allotment to a State under such title.

42 USC 1397.

"(i) CONVICTED DEFINED.—For purposes of subsections (a) and (b), a physician or other individual is considered to have been 'convicted' of a criminal offense—

"(1) when a judgment of conviction has been entered against the physician or individual by a Federal, State, or local court, regardless of whether there is an appeal pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged;

"(2) when there has been a finding of guilt against the physician or individual by a Federal, State, or local court;

"(3) when a plea of guilty or nolo contendere by the physician or individual has been accepted by a Federal, State, or local court; or

"(4) when the physician or individual has entered into participation in a first offender or other program where judgment of conviction has been withheld.".

SEC. 3. CIVIL MONETARY PENALTIES.

(a) GROUNDS FOR IMPOSITION.—(1) Section 1128A(a)(1) (42 U.S.C. 1320a-7a(a)(1)) is amended by striking "the Secretary determines" and all that follows through "; or" and inserting "the Secretary determines—

"(A) is for a medical or other item or service that the person knows or has reason to know was not provided as claimed,

"(B) is for a medical or other item or service and the person knows or has reason to know the claim is false or fraudulent,

"(C) is presented for a physician's service (or an item or service incident to a physician's service) by a person who knows or has reason to know that the individual who furnished (or supervised the furnishing of) the service—

"(i) was not licensed as a physician,

"(ii) was licensed as a physician, but such license had been obtained through a misrepresentation of material fact (including cheating on an examination required for licensing), or

"(iii) represented to the patient at the time the

service was furnished that the physician was certified in a medical specialty by a medical specialty board when the individual was not so certified, or

"(D) is for a medical or other item or service furnished during a period in which the person was excluded under the program under which the claim was made pursuant to a determination by the Secretary under this section or under section 1128, 1156, 1160(b) (as in effect on September 2, 1982), 1862(d) (as in effect on the date of the enactment of the Medicare and Medicaid Patient and Program Protection Act of 1987), or 1866(b); or".

Ante, p. 680; 42 USC 1320c-5. 42 USC 1320c-9.

Post, pp. 692, 693.

(2) Section 1128A(a)(2) is amended—

(A) in subparagraph (B) by inserting "(or other requirement of a State plan under title XIX)" after "State agency", and

42 USC 1396.

(B) by inserting at the end "or (D) an agreement pursuant to section 1866(a)(1)(G), or".

(3) Subsection (a) of section 1128A is further amended—

(A) by inserting after paragraph (2) and before the end matter of such subsection the following new paragraph:

"(3) gives to any person, with respect to coverage under title XVIII of inpatient hospital services subject to the provisions of section 1886, information that he knows or has reason to know is false or misleading, and that could reasonably be expected to influence the decision when to discharge such person or another individual from the hospital;", and

42 USC 1395. *Post,* p. 693.

(B) in the matter following paragraph (3)—

(i) by inserting "(or, in cases under paragraph (3), $15,000 for each individual with respect to whom false or misleading information was given)" before the period at the end of the first sentence, and

(ii) by adding at the end thereof the following new sentence: "In addition the Secretary may make a determination in the same proceeding to exclude the person from participation in the programs under title XVIII and to direct the appropriate State agency to exclude the person from participation in any State health care program.".

(b) STATUTE OF LIMITATION ON ACTIONS.—Subsection (c)(1) of section 1128A (as redesignated by section 9313(c)(1)(D) of the Omnibus Budget Reconciliation Act of 1986) is amended by adding at the end the following new sentences: "The Secretary may not initiate an action under this section with respect to any claim later than six years after the date the claim was presented. The Secretary may initiate an action under this section by serving notice of the action in any manner authorized by Rule 4 of the Federal Rules of Civil Procedure.".

28 USC app.

(c) CONFORMING AMENDMENT.—Subsections (c), (d), (g), and (h) of section 1128A are each amended by striking "penalty or assessment" and inserting "penalty, assessment, or exclusion" each place it appears.

(d) PRO-RATED PAYMENT OF RECOVERIES TO STATE AGENCIES.—Subsection (f)(1)(A) of section 1128A is amended by striking "equal to the State's share of the amount paid by the State agency" and inserting "bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid".

(e) NOTICE TO STATE AGENCIES.—Subsection (h) of section 1128A is further amended by inserting "the appropriate State agency or agencies administering or supervising the administration of State

Ante, p. 680.

health care programs (as defined in section 1128(h))," after "professional organization,".

(f) APPLICATION OF SUBPOENA POWER AND INJUNCTIVE POWERS.—

Ante, p. 686.

Section 1128A is further amended by adding at the end the following new subsections:

42 USC 405.

"(j) The provisions of subsections (d) and (e) of section 205 shall apply with respect to this section to the same extent as they are applicable with respect to title II. The Secretary may delegate the authority granted by section 205(d) (as made applicable to this section) to the Inspector General of the Department of Health and Human Services for purposes of any investigation under this section.

"(k) Whenever the Secretary has reason to believe that any person has engaged, is engaging, or is about to engage in any activity which makes the person subject to a civil monetary penalty under this section, the Secretary may bring an action in an appropriate district court of the United States (or, if applicable, a United States court of any territory) to enjoin such activity, or to enjoin the person from concealing, removing, encumbering, or disposing of assets which may be required in order to pay a civil monetary penalty if any such penalty were to be imposed or to seek other appropriate relief.".

SEC. 4. CRIMINAL PENALTIES FOR ACTS INVOLVING MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) TECHNICAL AMENDMENTS.—Section 1909 (42 U.S.C. 1396h) is amended—

(1) by amending the heading to read as follows:

"CRIMINAL PENALTIES FOR ACTS INVOLVING MEDICARE OR STATE HEALTH CARE PROGRAMS";

42 USC 1395.

(2) in subsection (a)(1), by striking "a State plan approved under this title" and inserting "a program under title XVIII or a State health care program (as defined in section 1128(h))";

(3) in the matter in subsection (a) following paragraph (4), by striking "this title" the first place it appears and inserting "the program";

42 USC 1396.

(4) in the last sentence of subsection (a), by striking "this title" the first place it appears and inserting "title XIX", and by striking "this title" the second place it appears and inserting "that title";

(5) in paragraphs (1)(A), (1)(B), (2)(A), (2)(B), and (3)(A) of subsection (b), by striking "this title" and inserting "title XVIII or a State health care program" each place it appears;

(6) in subsection (b)(3)—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting "; and", and

(C) by adding at the end the following:

"(C) any amount paid by a vendor of goods or services to a person authorized to act as a purchasing agent for a group of individuals or entities who are furnishing services reimbursed under title XVIII or a State health care program if—

Contracts.

"(i) the person has a written contract, with each such individual or entity, which specifies the amount to be paid the person, which amount may be a fixed amount or a fixed

percentage of the value of the purchases made by each such individual or entity under the contract, and

"(ii) in the case of an entity that is a provider of services (as defined in section 1861(u)), the person discloses (in such form and manner as the Secretary requires) to the entity and, upon request, to the Secretary the amount received from each such vendor with respect to purchases made by or on behalf of the entity.";

42 USC 1395x.

(7) in subsection (c), by striking "or home health agency (as those terms are employed in this title)" and inserting "home health agency, or other entity for which certification is required under title XVIII or a State health care program"; and

42 USC 1395.

(8) in subsection (d), by striking "this title" and inserting "title XIX" each place it appears.

42 USC 1396.

(b) CRIMINAL PENALTIES FOR PHYSICIAN MISREPRESENTATIONS.—Subsection (a) of such section is further amended—

(1) by striking "or" at the end of paragraph (3),

(2) by inserting "or" at the end of paragraph (4), and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) presents or causes to be presented a claim for a physician's service for which payment may be made under a program under title XVIII or a State health care program and knows that the individual who furnished the service was not licensed as a physician,".

Claims.

(c) REDESIGNATION OF SECTION 1877(d) AS SECTION 1128B(e).—Subsection (d) of section 1877 (42 U.S.C. 1395nn) is redesignated as subsection (e) and is transferred and inserted in section 1909 at the end thereof.

42 USC 1396h.

(d) REDESIGNATION OF SECTION 1909 AS SECTION 1128B.—Section 1909, as amended by subsections (a), (b), and (c) of this section, is redesignated as section 1128B and is transferred to title XI and inserted immediately after section 1128A.

42 USC 1320a-7b.

42 USC 1301.

(e) REPEAL.—Section 1877 (other than subsection (d) thereof which was transferred under subsection (c) of this section) is repealed.

SEC. 5. INFORMATION CONCERNING SANCTIONS TAKEN BY STATE LICENSING AUTHORITIES AGAINST HEALTH CARE PRACTITIONERS AND PROVIDERS.

(a) MEDICAID PLAN REQUIREMENT.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

Post, pp. 691, 694.

(1) by striking "and" at the end of paragraph (46),

(2) by striking the period at the end of the paragraph (47) added by section 9407(a) of the Omnibus Budget Reconciliation Act of 1986 and inserting a semicolon and transferring and inserting such paragraph after paragraph (46),

42 USC 1396a.

(3) by striking the period at the end of the paragraph (47) added by section 11005(b) of the Anti-Drug Abuse Act of 1986 and inserting "; and", by redesignating such paragraph as paragraph (48), and by transferring and inserting such paragraph after paragraph (47), and

42 USC 1396a.

(4) by inserting after paragraph (48) the following new paragraph:

"(49) provide that the State will provide information and access to certain information respecting sanctions taken against health care practitioners and providers by State licensing authorities in accordance with section 1921.".

Post, p. 690.

42 USC 1396s.

(b) INFORMATION REQUIRED.—Title XIX is amended by redesignating section 1921 as section 1922 and inserting after section 1920 the following new section:

"INFORMATION CONCERNING SANCTIONS TAKEN BY STATE LICENSING AUTHORITIES AGAINST HEALTH CARE PRACTITIONERS AND PROVIDERS

42 USC 1396r-2.
Ante, p. 689;
post, pp. 691, 694.

"SEC. 1921. (a) INFORMATION REPORTING REQUIREMENT.—The requirement referred to in section 1902(a)(49) is that the State must provide for the following:

"(1) INFORMATION REPORTING SYSTEM.—The State must have in effect a system of reporting the following information with respect to formal proceedings (as defined by the Secretary in regulations) concluded against a health care practitioner or entity by any authority of the State (or of a political subdivision thereof) responsible for the licensing of health care practitioners or entities:

"(A) Any adverse action taken by such licensing authority as a result of the proceeding, including any revocation or suspension of a license (and the length of any such suspension), reprimand, censure, or probation.

"(B) Any dismissal or closure of the proceedings by reason of the practitioner or entity surrendering the license or leaving the State or jurisdiction.

"(C) Any other loss of the license of the practitioner or entity, whether by operation of law, voluntary surrender, or otherwise.

"(2) ACCESS TO DOCUMENTS.—The State must provide the Secretary (or an entity designated by the Secretary) with access to such documents of the authority described in paragraph (1) as may be necessary for the Secretary to determine the facts and circumstances concerning the actions and determinations described in such paragraph for the purpose of carrying out this Act.

"(b) FORM OF INFORMATION.—The information described in subsection (a)(1) shall be provided to the Secretary (or to an appropriate private or public agency, under suitable arrangements made by the Secretary with respect to receipt, storage, protection of confidentiality, and dissemination of information) in such a form and manner as the Secretary determines to be appropriate in order to provide for activities of the Secretary under this Act and in order to provide, directly or through suitable arrangements made by the Secretary, information—

"(1) to agencies administering Federal health care programs, including private entities administering such programs under contract,

"(2) to licensing authorities described in subsection (a)(1),

"(3) to State agencies administering or supervising the administration of State health care programs (as defined in section 1128(h)),

Ante, p. 680.

"(4) to utilization and quality control peer review organizations described in part B of title XI and to appropriate entities with contracts under section 1154(a)(4)(C) with respect to eligible organizations reviewed under the contracts,

42 USC 1320c.
42 USC 1320c-3.

"(5) to State medicaid fraud control units (as defined in section 1903(q)),

42 USC 1396b.

"(6) to hospitals and other health care entities (as defined in section 431 of the Health Care Quality Improvement Act of 1986), with respect to physicians or other licensed health care practitioners that have entered (or may be entering) into an employment or affiliation relationship with, or have applied for clinical privileges or appointments to the medical staff of, such hospitals or other health care entities (and such information shall be deemed to be disclosed pursuant to section 427 of, and be subject to the provisions of, that Act), Health care facilities. 42 USC 11151. 42 USC 11137.

"(7) to the Attorney General and such other law enforcement officials as the Secretary deems appropriate, and

"(8) upon request, to the Comptroller General,

in order for such authorities to determine the fitness of individuals to provide health care services, to protect the health and safety of individuals receiving health care through such programs, and to protect the fiscal integrity of such programs.

"(c) CONFIDENTIALITY OF INFORMATION PROVIDED.—The Secretary shall provide for suitable safeguards for the confidentiality of the information furnished under subsection (a). Nothing in this subsection shall prevent the disclosure of such information by a party which is otherwise authorized, under applicable State law, to make such disclosure.

"(d) APPROPRIATE COORDINATION.—The Secretary shall provide for the maximum appropriate coordination in the implementation of subsection (a) of this section and section 422 of the Health Care Quality Improvement Act of 1986.". 42 USC 11132.

SEC. 6. OBLIGATION OF HEALTH CARE PRACTITIONERS AND PROVIDERS.

Section 1156 (42 U.S.C. 1320c-5) is amended—

(1) by striking "title XVIII" and "such title" in subsection (a) and inserting "this Act" in each instance, and

(2) by striking "title XVIII" in subsection (b) and inserting "this Act" each place it appears.

SEC. 7. EXCLUSION UNDER THE MEDICAID PROGRAM.

Section 1902 (42 U.S.C. 1396b) is amended by redesignating the subsection (l) added by section 3(b) of the Employment Opportunities for Disabled Americans Act as subsection (o) and by inserting after such subsection the following new subsection: 42 USC 1396a; *ante*, p. 689.

"(p)(1) In addition to any other authority, a State may exclude any individual or entity for purposes of participating under the State plan under this title for any reason for which the Secretary could exclude the individual or entity from participation in a program under title XVIII under section 1128, 1128A, or 1866(b)(2). 42 USC 1395; *ante*, p. 680; 42 USC 1370a-7a, 1395cc. 42 USC 1396b. 42 USC 1396n.

"(2) In order for a State to receive payments for medical assistance under section 1903(a), with respect to payments the State makes to a health maintenance organization (as defined in section 1903(m)) or to an entity furnishing services under a waiver approved under section 1915(b)(1), the State must provide that it will exclude from participation, as such an organization or entity, any organization or entity that—

"(A) could be excluded under section 1128(b)(8) (relating to owners and managing employees who have been convicted of certain crimes or received other sanctions), or

"(B) has, directly or indirectly, a substantial contractual relationship (as defined by the Secretary) with an individual or entity that is described in section 1128(b)(8)(B). Contracts.

"(3) As used in this subsection, the term 'exclude' includes the refusal to enter into or renew a participation agreement or the termination of such an agreement.".

SEC. 8. MISCELLANEOUS AND CONFORMING AMENDMENTS.

(a) MATERNAL AND CHILD HEALTH PROGRAM.—Section 504(b) (42 U.S.C. 704(b)) is amended—

(1) by striking "or" at the end of paragraph (4),

(2) by striking the period at the end of paragraph (5) and inserting "; or", and

(3) by adding at the end thereof the following new paragraph:

"(6) payment for any item or service (other than an emergency item or service) furnished—

"(A) by an individual or entity during the period when such individual or entity is excluded pursuant to section 1128 or section 1128A from participation in the program under this title, or

Ante, pp. 680, 686.

"(B) at the medical direction or on the prescription of a physician during the period when the physician is excluded pursuant to section 1128 or section 1128A from participation in the program under this title and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).".

(b) DISCLOSURE REQUIREMENTS.—(1) Subsection (a) of section 1126 (42 U.S.C. 1320a-5) is amended—

(A) in the first sentence, by striking "or other institution" and all that follows through the period at the end and inserting "or other entity (other than an individual practitioner or group of practitioners) shall be required to disclose to the Secretary or to the appropriate State agency the name of any person that is a person described in subparagraphs (A) and (B) of section 1128(b)(8).", and

(B) in the second sentence, by striking "institution, organization, or agency" and inserting "entity".

(2) Subsection (b) of such section is amended by striking "institution, organization, or agency" and inserting "entity" each place it appears.

(c) MEDICARE PAYMENTS.—(1) Section 1862 (42 U.S.C. 1395y) is amended—

(A) by repealing subsection (d), and

(B) by amending subsection (e) to read as follows:

"(e) No payment may be made under this title with respect to any item or service (other than an emergency item or service) furnished—

"(1) by an individual or entity during the period when such individual or entity is excluded pursuant to section 1128 or section 1128A from participation in the program under this title; or

"(2) at the medical direction or on the prescription of a physician during the period when he is excluded pursuant to section 1128 or section 1128A from participation in the program under this title and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).".

(2) Section 1842(j) (42 U.S.C. 1395u(j)) is amended—

(A) in paragraph (2)—

(i) by amending subparagraph (A) to read as follows:

"(A) excluding a physician from participation in the programs under this title for a period not to exceed 5 years, in accordance with the procedures of subsections (c), (f), and (g) of section 1128, or", and

Ante, p. 680.

(ii) by striking "barred from participation in the program" in the second sentence and inserting "excluded from participation in the programs"; and

(B) by striking "bar" in paragraph (3)(A) and inserting "exclude".

(3) Section 1862(h)(4) (42 U.S.C. 1395y(h)(4)) is amended by striking "paragraphs (2) and (3) of subsection (d)" and inserting "subsections (c), (f), and (g) of section 1128".

(4) Paragraph (3) of section 1886(f) (42 U.S.C. 1395ww(f)) is amended to read as follows:

"(3) The provisions of subsections (c) through (g) of section 1128 shall apply to determinations made under paragraph (2) in the same manner as they apply to exclusions effected under section 1128(b)(13).".

(d) TERMINATION OF PROVIDER AGREEMENTS UNDER MEDICARE.—Section 1866 (42 U.S.C. 1395cc) is amended—

(1) in subsection (a)—

(A) by striking paragraph (3), and

(B) by redesignating paragraph (4) as paragraph (3);

(2) by amending subsection (b) to read as follows:

"(b)(1) A provider of services may terminate an agreement with the Secretary under this section at such time and upon such notice to the Secretary and the public as may be provided in regulations, except that notice of more than six months shall not be required.

"(2) The Secretary may refuse to enter into an agreement under this section or, upon such reasonable notice to the provider and the public as may be specified in regulations, may refuse to renew or may terminate such an agreement after the Secretary—

"(A) has determined that the provider fails to comply substantially with the provisions of the agreement, with the provisions of this title and regulations thereunder, or with a corrective action required under section 1886(f)(2)(B),

"(B) has determined that the provider fails substantially to meet the applicable provisions of section 1861, or

42 USC 1395x.

"(C) has excluded the provider from participation in a program under this title pursuant to section 1128 or section 1128A.

42 USC 1320a-7a.

"(3) A termination of an agreement or a refusal to renew an agreement under this subsection shall become effective on the same date and in the same manner as an exclusion from participation under the programs under this title becomes effective under section 1128(c).";

(3) in paragraphs (1) and (3) of subsection (c), by striking "an agreement filed under this title by a provider of services has been terminated by the Secretary" and inserting "the Secretary has terminated or has refused to renew an agreement under this title with a provider of services";

(4) by inserting "or nonrenewal" in subsection (c) after "termination" each place it appears; and

(5) by adding at the end the following new subsection:

"(h)(1) Except as provided in paragraph (2), an institution or agency dissatisfied with a determination by the Secretary that it is

not a provider of services or with a determination described in subsection (b)(2) shall be entitled to a hearing thereon by the Secretary (after reasonable notice) to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

42 USC 405.

"(2) An institution or agency is not entitled to separate notice and opportunity for a hearing under both section 1128 and this section with respect to a determination or determinations based on the same underlying facts and issues.".

Ante, p. 680.

(e) CONFORMING AMENDMENT.—Section 1869 (42 U.S.C. 1395ff) is amended by striking subsection (c).

(f) MEDICAID PLAN REVISIONS.—Section 1902(a) (42 U.S.C. 1396b(a)) is amended—

42 USC 1396a; *ante*, pp. 689, 691.

(1) in paragraph (23), by inserting "subsection (g) and in" after "except as provided in",

(2) in paragraph (38), by striking "respectively, (A)" and all that follows up to the semicolon at the end and inserting "the information described in section 1128(b)(9)", and

(3) in paragraph (39)—

(A) by striking "bar" and inserting "exclude",

(B) by striking "person" and inserting "individual or entity" each place it appears, and

(C) by inserting "or section 1128A" after "section 1128".

(g) DENIAL OF FEDERAL FINANCIAL PARTICIPATION UNDER MEDICAID.—Paragraph (2) of section 1903(i) (42 U.S.C. 1396b(i)) is amended to read as follows:

"(2) with respect to any amount expended for an item or service (other than an emergency item or service) furnished—

"(A) under the plan by any individual or entity during any period when the individual or entity is excluded from participation in the State plan under this title pursuant to section 1128 or section 1128A, or

Ante, p. 689.

"(B) at the medical direction or on the prescription of a physician, during the period when such physician is excluded pursuant to section 1128 or section 1128A from participation in the program under this title and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).".

(h) MEDICAID CONFORMING AMENDMENTS.—(1) Subsection (n) of section 1903 (42 U.S.C. 1396b) is repealed.

(2) Paragraph (2) of section 1915(a) (42 U.S.C. 1396n(a)) is amended to read as follows:

"(2) Restricts for a reasonable period of time the provider or providers from which an individual (eligible for medical assistance for items or services under the State plan) can receive such items or services, if—

"(A) the State has found, after notice and opportunity for a hearing (in accordance with procedures established by the State), that the individual has utilized such items or services at a frequency or amount not medically necessary (as determined in accordance with utilization guidelines established by the State), and

"(B) under such restriction, individuals eligible for medical assistance for such services have reasonable access (taking into account geographic location and reasonable travel time) to such services of adequate quality.".

(i) TITLE XX.—Section 2005(a) (42 U.S.C. 1397d(a)) is amended—
(1) by striking "or" at the end of paragraph (7),
(2) by striking the period at the end of paragraph (8) and inserting "; or", and
(3) by adding at the end thereof the following new paragraph:
"(9) for payment for any item or service (other than an emergency item or service) furnished—
"(A) by an individual or entity during the period when such individual or entity is excluded pursuant to section 1128 or section 1128A from participation in the program under this title, or
"(B) at the medical direction or on the prescription of a physician during the period when the physician is excluded pursuant to section 1128 or section 1128A from participation in the program under this title and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).".

Ante, pp. 680, 689.

(j) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION TO MANUFACTURE, DISTRIBUTE, OR DISPENSE A CONTROLLED SUBSTANCE FOR ENTITIES EXCLUDED FROM THE MEDICARE PROGRAM.—Section 304(a) of the Controlled Substances Act (21 U.S.C. 824(a)) is amended—
(1) by striking "or" at the end of paragraph (3),
(2) by striking the period at the end of paragraph (4) and inserting "; or", and
(3) by inserting after paragraph (4) the following new paragraph:
"(5) has been excluded (or directed to be excluded) from participation in a program pursuant to section 1128(a) of the Social Security Act.".

SEC. 9. CLARIFICATION OF MEDICAID MORATORIUM PROVISIONS OF DEFICIT REDUCTION ACT OF 1984.

State and local governments. 42 USC 1396a note.

Section 2373(c) of the Deficit Reduction Act of 1984 (Public Law 98-369; 98 Stat. 1112) is amended to read as follows:
"(c)(1) The Secretary of Health and Human Services shall not take any compliance, disallowance, penalty, or other regulatory action against a State with respect to the moratorium period described in paragraph (2) by reason of such State's plan described in paragraph (5) under title XIX of the Social Security Act (including any part of the plan operating pursuant to section 1902(f) of such Act), or the operation thereunder, being determined to be in violation of clause (IV), (V), or (VI) of section 1902(a)(10)(A)(ii) or section 1902(a)(10)(C)(i)(III) of such Act on account of such plan's (or its operation) having a standard or methodology which the Secretary interprets as being less restrictive than the standard or methodology required under such section, provided that such plan (or its operation) does not make ineligible any individual who would be eligible but for the provisions of this subsection.

42 USC 1396. 42 USC 1396a.

"(2) The moratorium period is the period beginning on October 1, 1981, and ending 18 months after the date on which the Secretary submits the report required under paragraph (3).
"(3) The Secretary shall report to the Congress within 12 months after the date of the enactment of this Act with respect to the appropriateness, and impact on States and recipients of medical assistance, of applying standards and methodologies utilized in cash

Reports.

assistance programs to those recipients of medical assistance who do not receive cash assistance, and any recommendations for changes in such requirements.

"(4) No provision of law shall repeal or suspend the moratorium imposed by this subsection unless such provision specifically amends or repeals this subsection.

"(5) In this subsection, a State plan is considered to include—

"(A) any amendment or other change in the plan which is submitted by a State, or

"(B) any policy or guideline delineated in the Medicaid operation or program manuals of the State which are submitted by the State to the Secretary,

whether before or after the date of enactment of this Act and whether or not the amendment or change, or the operating or program manual was approved, disapproved, acted upon, or not acted upon by the Secretary.

"(6) During the moratorium period, the Secretary shall implement (and shall not change by any administrative action) the policy in effect at the beginning of such moratorium period with respect to—

"(A) the point in time at which an institutionalized individual must sell his home (in order that it not be counted as a resource); and

"(B) the time period allowed for sale of a home of any such individual,

who is an applicant for or recipient of medical assistance under the State plan as a medically needy individual (described in section 1902(a)(10)(C) of the Social Security Act) or as an optional categorically needy individual (described in section 1902(a)(10)(A)(ii) of such Act).".

Ante, pp. 689, 694.

SEC. 10. LIMITATION OF LIABILITY OF MEDICARE BENEFICIARIES WITH RESPECT TO SERVICES FURNISHED BY EXCLUDED INDIVIDUALS AND ENTITIES.

Title XVIII is amended by adding at the end the following new section:

"LIMITATION OF LIABILITY OF BENEFICIARIES WITH RESPECT TO SERVICES FURNISHED BY EXCLUDED INDIVIDUALS AND ENTITIES

Claims.
42 USC 1395aaa.

"SEC. 1890. Where an individual eligible for benefits under this title submits a claim for payment for items or services furnished by an individual or entity excluded from participation in the programs under this title, pursuant to section 1128, 1128A, 1156, 1160 (as in effect on September 2, 1982), 1862(d) (as in effect on the date of the enactment of the Medicare and Medicaid Patient and Program Protection Act of 1987), or 1866, and such beneficiary did not know or have reason to know that such individual or entity was so excluded, then, to the extent permitted by this title, and notwithstanding such exclusion, payment shall be made for such items or services. In each such case the Secretary shall notify the beneficiary of the exclusion of the individual or entity furnishing the items or services. Payment shall not be made for items or services furnished by an excluded individual or entity to a beneficiary after a reasonable time (as determined by the Secretary in regulations) after the Secretary has notified the beneficiary of the exclusion of that individual or entity.".

Ante, pp. 680, 689; 42 USC 1320c-5. 42 USC 1320c-9.

Ante, pp. 692, 693.

SEC. 11. DEFINITION OF PERSON WITH OWNERSHIP OR CONTROL INTEREST.

Section 1124(a)(3)(A)(ii) (42 U.S.C. 1320a-3(a)(3)(A)(ii)) is amended by striking "$25,000 or".

SEC. 12. CONDITIONAL APPROVAL OF RENAL DIALYSIS FACILITIES.

Section 1881 (42 U.S.C. 1395rr) is amended by adding at the end the following new subsection:

"(h)(1) In any case where the Secretary—

"(A) finds that a renal dialysis facility is not in substantial compliance with requirements for such facilities prescribed under subsection (b)(1)(A),

"(B) finds that the facility's deficiencies do not immediately jeopardize the health and safety of patients, and

"(C) has given the facility a reasonable opportunity to correct its deficiencies,

the Secretary may, in lieu of terminating approval of the facility, determine that payment under this title shall be made to the facility only for services furnished to individuals who were patients of the facility before the effective date of the notice.

"(2) The Secretary's decision to restrict payments under this subsection shall be made effective only after such notice to the public and to the facility as may be prescribed in regulations, and shall remain in effect until (A) the Secretary finds that the facility is in substantial compliance with the requirements under subsection (b)(1)(A), or (B) the Secretary terminates the agreement under this title with the facility.

"(3) A facility dissatisfied with a determination by the Secretary under paragraph (1) shall be entitled to a hearing thereon by the Secretary (after reasonable notice) to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).". 42 USC 405.

SEC. 13. AMENDMENT RELATING TO FRAUD INVOLVING MEDICARE SUPPLEMENTAL INSURANCE.

Section 1882(d)(1) (42 U.S.C. 1395ss(d)(1)) is amended by striking "knowingly or willfully" and inserting "knowingly and willfully".

SEC. 14. STANDARDS FOR ANTI-KICKBACK PROVISIONS.

(a) REGULATIONS.—The Secretary of Health and Human Services, in consultation with the Attorney General, not later than 1 year after the date of the enactment of this Act shall publish proposed regulations, and not later than 2 years after the date of the enactment of this Act shall promulgate final regulations, specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act. Any practices specified in regulations pursuant to the preceding sentence shall be in addition to the practices described in subparagraphs (A) through (C) of section 1128B(b)(3). 42 USC 1320a-7b note. *Ante*, p. 689. *Ante*, p. 680.

(b) CRIMINAL VIOLATION.—Section 1128B(b)(3), as amended and redesignated by section 4 of this Act, is further amended— 42 USC 1320a-7b.

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting "; and", and

(3) by adding at the end thereof the following new subparagraph:

"(D) any payment practice specified by the Secretary in regulations promulgated pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987.".

42 USC 1320a-7 note.

SEC. 15. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsections (b), (c), (d), and (e), the amendments made by this Act shall become effective at the end of the fourteen-day period beginning on the date of the enactment of this Act and shall not apply to administrative proceedings commenced before the end of such period.

(b) MANDATORY MINIMUM EXCLUSIONS APPLY PROSPECTIVELY.—Section 1128(c)(3)(B) of the Social Security Act (as amended by this Act), which requires an exclusion of not less than five years in the case of certain exclusions, shall not apply to exclusions based on convictions occurring before the date of the enactment of this Act.

Ante, p. 680.

(c) EFFECTIVE DATE FOR CHANGES IN MEDICAID LAW.—(1) The amendments made by sections 5 and 8(f) apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning more than thirty days after the date of the enactment of this Act, without regard to whether or not final regulations to carry out such amendment have been published by such date.

42 USC 1396.

State and local governments.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this Act, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(3) Subsection (j) of section 1128A of the Social Security Act (as added by section 3(f) of this Act) takes effect on the date of the enactment of this Act.

Claims.

(d) PHYSICIAN MISREPRESENTATIONS.—Clauses (ii) and (iii) of section 1128A(a)(1)(C) of the Social Security Act, as amended by section 3(a)(1) of this Act, apply to claims presented for services performed on or after the effective date specified in subsection (a), without regard to the date the misrepresentation of fact was made.

(e) CLARIFICATION OF MEDICAID MORATORIUM.—The amendments made by section 9 of this Act shall apply as though they were originally included in the enactment of section 2373(c) of the Deficit Reduction Act of 1984.

Ante, p. 695.

(f) TREATMENT OF CERTAIN DENIALS OF PAYMENT.—For purposes of section 1128(b)(8)(B)(iii) of the Social Security Act (as amended by section 2 of this Act), a person shall be considered to have been excluded from participation under a program under title XVIII if payment to the person has been denied under section 1862(d) of the Social Security Act, as in effect before the effective date specified in subsection (a). 42 USC 1395. *Ante*, p. 692.

Approved August 18, 1987.

LEGISLATIVE HISTORY—H.R. 1444 (S. 661):

HOUSE REPORTS: No. 100-85, Pt. 1 (Comm. on Energy and Commerce) and Pt. 2 (Comm. on Ways and Means).
SENATE REPORTS: No. 100-109 accompanying S. 661 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 133 (1987):
June 1, 2, considered and passed House.
July 23, considered and passed Senate, amended, in lieu of S. 661.
July 30, House concurred in Senate amendment.

○

CMS LIBRARY
3 8095 00007730 1